

**CITY COUNCIL MINUTES**  
**January 26, 2009**  
**REGULAR SESSION**

The Regular Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Monday, January 26, 2009 at 6:00 p.m. with Mayor J.M. Holmes presiding and City Clerk Joseph G.R. Labrie recording the minutes.

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

Led by Cub Scout Den 7, Pack 1

**ROLL CALL:**

**Council Members Present:** Keith Nesbitt, Kevin Hanley, Bill Kirby, Bridget Powers, J. M. Holmes,

**Council Members Absent:** None

**Staff Members Present:** City Manager Robert Richardson, City Attorney Michael Colantuono, Community Development Director Will Wong, Fire Chief Mark D'Ambrogi, Public Works Director Jack Warren, Engineering Division Manager Bernie Schroeder, Transit Analyst Megan Siren, Administrative Services Director Andy Heath, Police Chief Valerie Harris

**MAYOR'S COMMENDATIONS/PROCLAMATIONS/ACKNOWLEDGEMENTS/ANNOUNCEMENTS**

Mayor Holmes thanked everyone who attended the Economic Summit. He said there were approximately 80 persons in attendance. He said many ideas were gathered as to how to move the City economically forward. He said the City's Economic Development Commission will follow up on some of the ideas presented.

Mayor Holmes advised that he and staff met with a representative of the Federal Railroad Administration regarding "Quiet Zones."

Mayor Holmes stated that he sent a letter to the Placer County Water Agency (PCWA) asking for support on the Regional Wastewater Treatment Plant. He said the agency did not promise any funding but it did agree that the regional solution is in the best interest of the entire community. He said PCWA will send letters of support to elected representatives.

## AGENDA APPROVAL

The agenda was approved as presented by consensus of the Council.

## CONSENT CALENDAR

### 1. Minutes

Item removed to follow Consent Calendar at the request of Council Member Powers.

### 2. Warrants

By **RESOLUTION 09-6** ratify and approve payment of warrants 70820 through 71559 totaling \$3,528,714.39.

### 3. Application for Funding from the Over-the-Counter Economic Development Allocation of the State CDBG Program for Reneson Hotels, Inc.

By **RESOLUTION 09-7** approve an Application for Funding from the Over-the-Counter Economic Development Allocation of the State CDBG Program and identifying the responsible party for grant administration.

### 4. Consultant Agreement for the Falcons Point Sewer Pump Station

Item removed to follow Consent Calendar at the request of Council Member Nesbitt.

### 5. Auburn Municipal Airport – East Area Hangar Project Amendment to Consultant Agreement – Phase IV

By **RESOLUTION 09-9** approve Phase IV of the consultant agreement with Mark A. Machado in the amount not to exceed \$54,000.

### 6. Public Notification–CalPERS Two-Year Service Credit Future Annual Costs

By **RESOLUTION 09-10**, in accordance with Government Code Section 7507, make public for two weeks prior to adoption of a resolution establishing a designated period for two years additional service credit, the costs of providing benefits under the California Public Retirement System's (CalPERS) Two-Year Service Credit program, estimated to be \$111,009.60.

\*\*\*\*\* End of Consent Calendar \*\*\*\*\*

By **MOTION** approve the Consent Calendar consisting of Items 2, 3, 5 and 6. **MOTION: Hanley/Powers/Approved 5:0**

1. **Minutes**

Council Member Powers requested that the minutes of December 8, 2008, Special Session, reflect that she nominated Mayor Holmes and not Council Member Nesbitt as shown. Council Member Nesbitt noted a correction in the spelling of a name from Kurt Smith to Curt Smith.

By **MOTION** approve City Council Minutes of December 8, 2008, Special Session and Council Reorganization, and December 30, 2008 as corrected. **MOTION: Powers/Hanley/Approved by Voice**

4. **Consultant Agreement for the Falcons Point Sewer Pump Station**

Council Member Nesbitt referred to a letter in the agenda packet from Edward M. Giuliani regarding a SCADA system. He asked for an explanation of the system and the reason for its initial exclusion.

Public Works Director Jack Warren explained that Supervisory Control and Data Acquisition (SCADA) is a computer-based notification system from the pump station to the Wastewater Treatment Plant, or another selected site, that a problem has arisen. He estimated that the component for the lift station would be about \$10,000. He said the cost for citywide service would probably range from \$150,000 to \$200,000. He said the communication component of the system operates via "line of sight," point to point, technology. Engineering Division Manager Schroeder advised that the lift station is at the lowest point and therefore difficult to obtain a "line of sight." She said there are alternatives, but for Vintage Oaks and Falcons Point there are no alternatives at this point.

By **RESOLUTION 09-8** authorize the Director of Public Works to execute a consultant agreement with Giuliani & Kull, Inc. for design engineering services for the Falcons Point Sewer Pump Station. **MOTION: Nesbitt/Powers/Approved 5:0**

7. **Public Comment**

None.

## **PUBLIC HEARING**

### **8. Ordinance Amendment Public Noticing Requirements**

Community Development Director Will Wong stated that the Council previously initiated an ordinance amendment to update the public notification requirements for planning projects. He said staff used Placer County's Ordinance as an example. Mr. Wong explained how the staff and Planning Commission then set parameters for signing requirements within the city.

Council Member Hanley stated that he was concerned with additional costs to businesses by imposing the cost of public notification signs. He said other cities are trying to reduce fees. He recommended that the City go forward on the 500' mail notice and postpone the proposed sign portion of the ordinance for a year or more.

Council Member Nesbitt said, considering the size and expense of a large project, he did not see the cost of a sign as a financial hardship. He said he would support the Planning Commission's recommendation.

Council Member Kirby said there was no reason to oppose Mr. Hanley's recommendation in a small town where projects of that size could be properly noticed.

- A. By **MOTION** find that the amendment to the City of Auburn Zoning Ordinance is Statutorily Exempt from the California Environmental Quality Act (CEQA) per Section 15061(b) for the adoption of an ordinance regarding public noticing requirements, and
- B. By **MOTION** introduce and hold a first reading, by title only, of the Public Noticing Requirements Ordinance, consisting of the changes that propose mailing notifications from 300' to 500' and postpone to one year from now the changes on the public notification sign. **MOTION: Hanley/Powers/Approved 5:0**

City Attorney Colantuono advised, "It is exactly everything in the ordinance except for Paragraph C of proposed Section 159.460."

## **REPORTS**

### **9. Department of Public Works – Quarterly Projects**

Public Works Director Jack Warren provided Council with a handout of the Capital Improvement Work Plan 2008-2009. The projects included were:

sewer, streets, storm drains, transit, general community, airport, and city buildings/facilities. He also included Auburn Urban Development Authority projects. Mr. Warren and Engineering Division Manager Schroeder provided the status of various projects to the Council.

Mayor Holmes advised that the Council has to come to some type of a conclusion, within the next couple of months, regarding the regional solution vs. upgrades to the local plant. He asked that a report be prepared for Council discussion by the end of February, if feasible.

Council encouraged the setting of frequent dates for the disposal of pharmaceuticals and controlled substances. All agreed that disposal of controlled substances has become a huge issue. People are flushing unused drugs down toilets causing serious water pollution problems.

Mayor Holmes stated that he felt the effort to establish a "Quiet Zone" should be continued. He said, even though he and Mr. Warren met with a representative of the Federal Railroad Administration, he would like to get more specifics as to what modifications may be required to establish a zone. He also suggested that the City Attorney advise of liability issues that the City may have with the establishment of a "Quiet Zone."

Council Member Hanley stated that previous Council Member Snyder had recommended, and the Council supported, that those living close to the railroad tracks would pay a little more, as an assessment zone, for the City to look into proposed Quiet Zone to see if it was feasible.

Mr. Warren stated that it felt the issue was not worth exploring further. He said the number of the people that complain, compared to the boundaries of influence, differ greatly. Mayor Holmes stated that there have not been many complainants.

Council Member Hanley said the homeowners may be willing to pay a certain assessment because their home values would increase. City Manager Richardson stated that, if it is the desire of the Council to explore the idea further, staff would prepare a presentation. Council Member Nesbitt stated that he would like to see what the "fair share" would be for those closest to the tracks. Mr. Warren stated that the estimate for the directional horns will be \$50,000 to \$75,000. Mr. Holmes suggested that the Council wait to see what the Federal Railroad Administration has to say regarding modifications that will need to be made.

Council Member Nesbitt requested that, after follow-up with the Administration's representative, the item be brought back to the Council for further discussion.

Public Works Director Warren advised that there are no funds to complete portions of the jury parking lot. He said the solution may be to break the work into phases. He advised that a report will be on the next agenda.

Mayor Holmes advised that there is a group that would like to place a monument near the In-and-Out Burger. He asked about the area that CalTrans controls and its relinquishment of property in that area. Mr. Warren stated that he was not certain if it was outside of the CalTrans relinquishment area.

10. **Multi-Modal Parking Lot**

Engineering Division Manager Schroeder stated there was an increase in rail usage when gas prices increased. She said there was a need to seek additional parking. She advised that Creekside Office Park could temporarily provide additional parking. However, rail ridership decreased when gas prices decreased. She advised that there is not an additional parking need at this time. Council Member Hanley suggested that the Blocker Drive property may be a future solution. The Council took no action but received the report.

11. **City Council Committee Reports**

Council Member Nesbitt reported on the Youth Advisory Commission (YAC). He said the members are involved in a cooperative effort with Placer County Water Agency (PCWA) regarding water conservation. He said, since May is Water Conservation Month, the YAC will be teaming up with other campus groups to provide presentations to local groups that month.

Council Member Powers advised that on January 15<sup>th</sup> the Placer County Economic Development Commission met. The City of Auburn gave two presentations at the meeting. She thanked Mr. Warren for his presentation on the Streetscape. She advised that she reported on the City's Economic Summit.

Council Member Kirby stated that he met with the Traffic Commission. He said he also met with the Placer-Nevada County Wastewater Authority. He advised that Lincoln is not going to authorize any additional expenditure for regional sewer design. It was suggested that the Federal stimulus program may help with design funds. Regarding the regional wastewater solution, he said a study revealed that 75% of the residents in unincorporated areas preferred the "stay-at-home" option.

Mayor Holmes stated that he has sent letters to the offices of Senator Boxer, Feinstein, and Representative McClintock. He said that he and

Engineering Division Manager Schroeder had a meeting with a representative from Senator Boxer's office. It was suggested that stimulus package may make funds available for the regional plant or to help the City upgrade the local plant.

## **COUNCIL BUSINESS**

### **12. Bureau of Reclamation Lands Adjacent to the City of Auburn**

Fire Chief Mark D'Ambrogio, on behalf of Council Member Hanley, presented a letter regarding the cancellation of the Bureau of Reclamation's contract with Cal Fire. He said Cal Fire provides fire suppression services to the State recreation area, which borders 75% of the City. He said his office has sent a letter to the Bureau of Reclamation. He asked the Bureau if money was available to the City to provide fuels management, and the process the City should use to obtain permission to provide fuels management on Bureau property.

Council Member Hanley, Fire Safe Council Chair, stated that for the past six years the Fire Department, Cal Fire, the Federal Government worked together to lessen the fire danger with a shaded fuel break in the canyon. He said the recent cancellation of the cooperative agreement indicates that the Federal Government does not seem as committed as it should be to take care of its lands. He said it endangers citizens and firefighters. He advised that he drafted letters to Senators Boxer and Feinstein and Representative McClintock for Council consideration. He added that copies also be sent to State Legislative Representatives' Senator Cox and Assemblyman Gaines. He said the City is asking for one of two solutions: (1) Federal legislation that would authorize the Bureau to engage in cooperative agreements and enough money to perform vegetation management or (2) give the City the opportunity to annex those lands.

Council Member Powers and Council Member Kirby stated their support for the letter with annexation as their choice for a long-term solution.

Mayor Holmes stated that he seems to get a better response from Senator Boxer's office. Council Member Hanley stated that it comes down to which representative is willing to take on the issue. He said he wants to express the urgency of fire protection, but if the Council agrees that the ultimate consideration should be annexation, he would redraft the letter and return it for Council Members' signatures at that time.

Fire Chief D'Ambrogio stated the common question is, "What fire suppression will take place?" He advised that all surrounding fire agencies have agreed to perform duties as usual to cooperate in keeping fires small. He said he knows the Bureau of Land Management has a

program to allow private citizens to do work on Federal property. He said he may have the opportunity to seek grant funding. He said prior permission would allow him to tailor the grant to use those funds. He said it is uncommon to use Federal Grant monies on Federal property without prior permission.

Mayor Holmes stated that it is his understanding that there will not be a Project Auburn this year. He said he suggested to the Rotary Club and other services clubs that they may want to get involved in the shaded fuel break maintenance. He said it could be a weekend project.

By **MOTION** authorize a re-drafted letter to Federal Representatives, adding copies to State Senator Cox and State Assemblyman Gaines, requesting assistance regarding the termination of the Cooperative Agreement between the Bureau of Reclamation and Cal Fire for wild land fire protection and vegetation management in the Auburn Recreation Area adjacent to the City of Auburn be sent on behalf of the Auburn City Council. **MOTION: Hanley/Nesbitt/Approved 5:0**

13. **Potential Project List for Federal Funding Request – Cap to Cap Project List**

Public Works Director Warren stated that the list for Federal funding had to be sent to the Sacramento Chamber on Friday, January 23, 2009. However, if the Council chose to amend the list, it could be revised.

Mayor Holmes stated that although he presented projects in years past, the City did not receive funds. He said the representative from Senator Boxer's office indicated that the City has a "shovel ready" project; therefore, it may be beneficial to add the upgrade of the Wastewater Treatment Plant. He said the County will be presenting the regional wastewater project. Mr. Holmes stated that, once the City has the position papers prepared, advance copies should be sent to our representative in Congress and our Senators and to Doris Matsui. He said that, although she is not our representative, she is a representative in the region, as is Dan Lungren. He also suggested that a separate letter be sent to the Chair of the Committee in the House with the point papers.

Council Member Hanley recommended that the Fire Chief prepare an issue paper for the shaded fuel break. Mayor Holmes suggested that position papers should be prepared for (1) Lincoln Basin Drainage, (2) Electric Street Stormwater, (3) Regional Sewer Project (4) Shaded Fuel Break and (5) Upgrade City Wastewater Treatment Plant.

By **MOTION** accept the project list, (1) Lincoln Basin Drainage, (2) Electric Street Stormwater, (3) Regional Sewer Project (4) Shaded Fuel Break and



(5) Upgrade City Wastewater Treatment Plant, for Federal funding request, and other actions, and direct staff to prepare "Issue Papers" on each project. **MOTION: Hanley/Powers/Approved 5:0**

14. **Wastewater Treatment Plant Mandatory Minimum Penalty**

Public Works Director advised that Regional Water Quality Control Board has been working through a backlog of mandatory minimum penalties that go back to the year 2000. He said last November the Board initiated a penalty against the City in the amount of \$90,000. He said in an attempt to lessen the penalty, the City of Auburn presented to the Board a Supplemental Environmental Project (SEP) to which \$30,000 could be applied. The Regional Board advised that the proposal did not go beyond the normal obligation of the City and, therefore, did not meet requirements. The Board advised that the City could present a new proposal by February 6, 2009.

Mr. Warren advised that the cost of a revised SEP could exceed the cost of the fine. He, therefore, recommended the fine be paid. He said the fine has been reduced by the Board from \$90,000 to \$60,000. He said Ch2mHill-OMI has agreed to pay \$27,000, leaving the balance \$33,000 for the City to pay.

Council Member Nesbitt suggested that a project in association with SARSAS might be a suitable SEP for future investigation.

Council questions and comments followed regarding OMI, the Water Quality Control Board fines and future environmental projects.

Ken Yeo, Auburn resident, presented written information to Public Works Director Jack Warren regarding sewage system equipment that can be leased.

By **MOTION** accept the Administrative Civil Liability Complaint Rf-2008-0599 and pay the penalty. **MOTION: Hanley/Powers/Approved 5:0**

15. **East Lincoln Way Sidewalk Project – Cost Overrun**

Public Works Director explained that the City became aware last Fall of some cost overruns. He said it was not taken to the Council at that time because both the extent of the problems encountered and the exact cost was not known. He said much of the overrun was due to a poorly designed project, the cost of excavation, unanticipated need to move power poles and elevation and drainage issues were incomplete.

Mr. Warren said the City is familiar with the Contractor who has always performed well. He said it is a reliable and competent firm. Therefore, Mr. Warren felt the additional cost was warranted. Western Engineering agreed not to exceed \$100,000. Mr. Warren made an inquiry to the State to ascertain if the grant money could be augmented to cover the additional cost. He received an acknowledgement that it is being reviewed. He advised that staff is proposing utilizing funds originally designated for other capital projects within the Transportation Fund Budget.

Council questions and comments followed regarding selection of the design firm, the construction bid, future design review, final change order request and the original grant amount.

Curt Smith, Auburn resident, stated that he found it interesting that there is no recourse for the City with the design firm that did not perform properly. He said most contracts have some way to address performance issues and asked why this contract did not. He said someone should have noticed that there were telephone poles in the project area.

Engineering Division Manager stated that the need to move poles was not clear at the time of the walk through. She said that dialogue has been proposed with the design firm principals to determine what responsibility they plan to take. She said there are "errors and omissions" in the contract, and that the agreement was a standard agreement.

City Attorney Colantuono advised that, if the City has cause to believe it has a "credible basis that the design professionals did not meet the standard of care that the professional agreement requires them to meet," the City starts discussion with them. He said frequently an issue can be resolved through dialogue. If it cannot be resolved, the City has to make a judgment as to the cost to correct inadequate work vs. the cost of legal action. He advised that further comment to the Council should be made in a confidential setting.

By **MOTION** approve in concept a contract change order to Western Engineering Construction to completion of the East Lincoln Way Sidewalk Project in an amount not to exceed \$100,000.00. Funding for this extra work is proposed to come from within the Transportation Fund as described in the Fiscal Impact Section of this report. **MOTION: Kirby/Hanley/Approved 5:0**

## **ADJOURNMENT**

Mayor Holmes, without objection, adjourned the meeting at 8:23 p.m.

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J. M. Holmes, Mayor

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Joseph G. R. Labrie, City Clerk